

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FRANCIS JOYCE

Plaintiff

v.

RICHARD DEVASTEY, et al.

Defendants

CIVIL ACTION

No. 12-0834

**ANSWER OF DEFENDANT FEDERAL DEPOSIT INSURANCE CORPORATION  
AS RECEIVER FOR PROGRESS BANK OF FLORIDA  
TO CROSS CLAIM OF DEFENDANT RICHARD DEVASTEY**

Defendant Federal Deposit Insurance Corporation (“FDIC”) as Receiver for Progress Bank of Florida (“FDIC-R”), by its counsel, hereby answers the Cross Claim of Defendant Richard Devastey (“Devastey”) as follows:

64. Denied.

**First Defense**

The Cross Claim fails to state a claim upon which relief can be granted against FDIC-R.

**Second Defense**

Devastey’s Cross Claim is barred in whole or in part by Devastey’s own consent.

**Third Defense**

Devastey has failed to mitigate his damages if any.

**Fourth Defense**

Devastey's Cross Claim is barred in whole or in part by Devastey's own contributory or comparative negligence.

**Fifth Defense**

Devastey's Cross Claim is barred by his assumption of the risk.

**Sixth Defense**

Devastey's remedies against the FDIC-R are limited as set forth in the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA"), 12 U.S.C. § 1821(d)(2)(A)(ii), (B) & (E).

WHEREFORE, the FDIC-R requests that judgment be entered in its favor and against Devastey on his Cross Claim.

s/Lisa B. Wershaw  
Jeffrey S. Saltz  
Lisa B. Wershaw  
Attorneys for Defendant FDIC-R

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Dated: January 30, 2013

**CERTIFICATE OF SERVICE**

I hereby certify that on January 30, 2013, I caused the foregoing Answer of Defendant Federal Deposit Insurance Corporation as Receiver for Progress Bank of Florida to Cross Claim of Defendant Richard Devastey to be filed electronically with the Court, where it is available for viewing and downloading from the Court's ECF system, that such electronic filing automatically generates a Notice of Electronic Filing constituting service of the filed document on Lee D. Rosenfeld, Esquire, counsel for Plaintiff, Susan J. Wiener, Esquire, counsel for Defendant Devastey, Pauline J. Manos, Esquire, counsel for Defendant City of Philadelphia, and Michael J. Dempsey, Esquire, counsel for Defendant Mango & August, Inc. and that on the same date I caused a paper copy to be served on all other parties to this action by First Class Mail as follows:

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s/ Lisa B. Wershaw  
Lisa B. Wershaw